

# PATENT COOPERATION TREATY

# PCT

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PC/4-33524A/USN	<b>FOR FURTHER ACTION</b> See Form PCT/IPEA/416	
International application No. PCT/EP2004/013410	International filing date (day/month/year) 25.11.2004	Priority date (day/month/year) 26.11.2003
International Patent Classification (IPC) or national classification and IPC C07D211/42, C07D405/04, C07D401/10, C07D409/10, A61K31/4418, A61K31/443, A61K31/4436, A61K31/4439, A61K31/444		
Applicant NOVARTIS AG et al.		

<ol style="list-style-type: none"> <li>This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</li> <li>This REPORT consists of a total of 6 sheets, including this cover sheet.</li> <li>This report is also accompanied by ANNEXES, comprising:           <ol style="list-style-type: none"> <li><input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of sheets, as follows:               <ul style="list-style-type: none"> <li><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> </li> <li><input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ol> </li> </ol>
<ol style="list-style-type: none"> <li>This report contains indications relating to the following items:           <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the opinion</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul> </li> </ol>

Date of submission of the demand 20.09.2005	Date of completion of this report 18.10.2005
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Fanni, S Telephone No. +49 89 2399- 

# **INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.  
PCT/EP2004/013410

## **Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
    - international search (under Rules 12.3 and 23.1(b))
    - publication of the international application (under Rule 12.4)
    - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

**Description, Pages**

1-75 as originally filed

## **Claims, Numbers**

1-28 as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3.  The amendments have resulted in the cancellation of:  
 the description, pages  
 the claims, Nos.  
 the drawings, sheets/figs  
 the sequence listing (*specify*):  
 any table(s) related to sequence listing (*specify*):

4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).  
 the description, pages  
 the claims, Nos.  
 the drawings, sheets/figs  
 the sequence listing (*specify*):  
 any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

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1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

the entire international application,

claims Nos. 17-20

because:

the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for the said claims Nos. 17-20

the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

has not been furnished

does not comply with the standard

the computer readable form

has not been furnished

does not comply with the standard

the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

See separate sheet for further details

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes:	Claims	
	No:	Claims	1,25,28
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1,25,28
Industrial applicability (IA)	Yes:	Claims	1,25,28
	No:	Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Re Item III.**

Claims 17-20 relate to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Article 34(4)(a)(I) PCT). See also the paragraph on : "Industrial applicability" in item V below.

**Re Item V.**

1 The following document is referred to in this communication:

D1 : WO 97/09311

D2: WO 00/64873

**NOVELTY (Article 33(2) PCT)**

The present subject matter overlaps with D1. As the present subject matter does not appear to correspond to a novel technical teaching vis-à-vis D1, present claims 1, 25 and 28 are not novel over D1.

The present subject matter differs from D2 on account of the definition of present residue Y.

**INVENTIVE STEP (Article 33(3) PCT)**

The present subject matter is directed towards the provision of 4-phenylpiperazines as renin inhibitors.

D1 is considered to be the closest prior art and discloses piperazine derivatives as renin inhibitors.

As mentioned above the present subject matter overlaps with D1, with specifically disclosed examples from D1 (e.g. examples 25 and 41) differing from the present subject

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matter on account of the present definition of Y.

The problem to be solved by the present application vis-à-vis D1 is considered to be the provision of further renin inhibitors having unexpected effect(s) when compared with the structurally closest compounds from the prior art, i.e. unexpectedly solve a problem not yet solved by D1. It appears therefore that an inventive step for the present subject matter can be established only in a comparative manner, showing (e.g. with comparative tests) that the present compounds do have such unexpected effects or properties. In the absence of any evidence that this is indeed the case, an inventive step cannot be acknowledged for the present subject matter.

**INDUSTRIAL APPLICABILITY (Article 33(4) PCT)**

For the assessment of the present claims 17-20 on the question whether they are industrially applicable, no unified criteria exist in the PCT Contracting States. The patentability can also be dependent upon the formulation of the claims. The EPO, for example, does not recognize as industrially applicable the subject-matter of claims to the use of a compound in medical treatment, but may allow, however, claims to a known compound for first use in medical treatment and the use of such a compound for the manufacture of a medicament for a new medical treatment.